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STUDENT NOTE

CONCLUSIVE PRESUMPTIONS IN WEST VIRGINIA

Presumptions, as might be expected, have been appearing and disappearing throughout the history of evidence. Much confusion has attended the use of the word, and there has been no less confusion about the kinds of presumptions, be they presumptions of law, presumptions of fact, conclusive presumptions or whatever name courts and writers ascribe to them. The conclusive presumption is an especially troublesome creature, some writers denying its existence while others recognize it but devote very little time to it. It is the purpose here, in a humble way, to look at its use in this state and to determine if in fact it does exist.

Whenever the term presumption is used, it describes a relationship between one fact or group of facts and another fact or group of facts.¹ It is the assumption of fact resulting from a rule of law which requires such fact to be assumed from another fact or group

¹ State v. Dodds, 54 W. Va. 289, 46 S.E. 228 (1904); State v. Heaton, 23 W. Va. 773 (1883); 1 MORGAN, BASIC PROBLEMS OF EVIDENCE § 30 (1954).